

## Office of Professional Accountability (OPA) Commendations & Complaints Report January 2006

### Commendations:

Commendations Received in January: 28

Commendations Received to Date: 28

Name	Summary
<b>Barnes, Timothy Higa, Randall Smith, John D. Willis, Ron Wong, M</b>	Multiple reported stolen vehicles equipped with silent alarms were tracked and recovered within minutes of activation. Officers were commended for their quick response.
<b>Basney, Lance Skaar, Donald</b>	A commendation was received by two officers who responded to a dispute call. By the officers actions, the situation was resolved.
<b>Bassett, Jill Edison, Simon</b>	Two officers were thanked for a ride-along by two students. The officers represented the Department in a most professional manner.
<b>Benz, Daniel</b>	While off-duty and without hesitation, Officer Benz conducted CPR on a citizen until the fire department arrived on scene. With his quick actions he saved this persons' life. He was commended for his actions.
<b>Cook, Sara</b>	A kind letter was received by Officer Cook for her professional service shown to another law enforcement agency. She facilitated an interview with a rape suspect in a professional, competent and pleasant manner. Her willingness to assist a detective from an outside agency was appreciated.
<b>Foster, Ian</b>	Sgt. Foster received a letter commending him for his conscientious effort in contacting the police as two suspects were burglarizing a neighbors home. His actions were pivotal in aiding the Tukwila Police Department in arresting the suspects responsible for the burglary.
<b>Fox, P J</b>	Officer Fox was thanked for his action in finding a lost cell phone and returning it to the owner within minutes of recovery. He went above and beyond to help the citizen.
<b>Gardea, Oscar Gordon, David Long, Darren Morrison, Ben Vela, Ariel</b>	A memo of recognition and commendation was received by a sergeant and four officers for their efforts to take a suspect into custody on a warrant arrest without incident. Because of their effort, the suspect who has been out for two months on an armed bank robbery conviction will now be going back to Federal Prison for at least three years.
<b>Hughes, Gretchen</b>	A letter of appreciation was received by this officer for her assistance at the North Precinct. She was very kind and helpful.
<b>McLaughlin, Chad</b>	The officer was commended for his thorough job of processing a burglary scene which resulted with a match in the AFIS database. Suspect admits to doing from 50 to 100 burglaries in both the East and West Precincts. Suspect is presently in custody.
<b>Nelson, Richard Parker, Aaron Vaca, Raul Vandergiesen, D.</b>	A letter of commendation was received by three officers and a sergeant for their thorough investigation of an incident that took place at a club. The level of attention that these officers took in writing the report will be of great assistance to the WSLCB in taking further enforcement action against the establishment.
<b>Russey, Michael Solomon, Mark</b>	A thank you note was received by an officer for his thorough job of processing a burglary scene. He did an excellent job managing the home owners anxiety while working up the crime scene. Mark Solomon was also thanked for his involvement

	in arranging a block watch meeting. This meeting was informative to all the home owners in the area due to the numerous burglaries that have taken place.
<b><i>Tietje, Grant</i></b>	A sincere thank you was received by the sergeant for helping to find a lost boy. Sgt. Tietje was off-duty at the time but he has not forgotten his commitment to service. It was a great relief to the parents.
<b><i>Welborn, Bradley</i></b>	A note of thanks was received by the officer for his help with directions to a hospital. Not only did the officer give them directions but he was kind enough to escort them to the hospital. Made a bad night a lot less stressful.

\*This report includes commendations received from citizens or community members. Numerous commendations generated within the department are not included.

## January 2006 Closed Cases:

*Cases involving alleged misconduct of officers and employees in the course of their official public duties are summarized below. Identifying information has been removed.*

*Cases are reported by allegation type. One case may be reported under more than one category.*

### UNNECESSARY FORCE

Synopsis	Action Taken
The complainant alleged that the named employee used unnecessary force when the named employee contacted him during a confrontation over jaywalking.	The named employee was working off-duty directing traffic at a construction site. The named employee exchanged words with the complainant about the complainant's jaywalking. The parties gave conflicting accounts of what occurred next, but the evidence supports that the named employee contacted the complainant in anger, not to take enforcement action. Finding—SUSTAINED.
The complainant alleges the named employee used unnecessary force when he unnecessarily sprayed pepper spray at her as he dealt with a disturbance she had helped break up and was leaving.	The evidence regarding whether the complainant presented a threat to the named employee is conflicting. In any event, it is noted that the named employee took steps to mitigate the conflict caused by his use of force, in that he took time to explain his rationale to the subject and her girlfriend, expressed regret for the circumstances and confusion, and elected not to cite the subject. Finding—NOT SUSTAINED.
The complainant alleged that the named employees used unnecessary force to keep him from swallowing marijuana. The complainant also alleged that one of the named employees threatened him.	<p>The investigation showed that the named employees contacted the complainant and ordered him to leave a park that was closed. The complainant was smoking marijuana, and tried to conceal the joint, first in his hand, and then in his mouth. One employee grabbed his throat or jaw and put his fingers in the complainant's mouth in an attempt to keep him from swallowing the object. The other employee stated he pulled his weapon because he saw the complainant reach into the vicinity of his waistband and pointed it at the complainant's head. The employee stated that he told the complainant there could have been an accidental discharge. The evidence established that the officers detained the complainant and did not screen the arrest and release with a supervisor. Finding—SUSTAINED.</p> <p>The evidence also showed that there was no compelling reason to put his fingers in the complainant's mouth. Finding- TRAINING REFERRAL.</p> <p>Finally, the actions of the other employee in displaying his weapon were excessive and unjustified. Finding CUBO—TRAINING REFERRAL.</p>
Complaint alleges that while in custody for a criminal offense, the named employee struck the complainant multiple times with an open hand.	The facts determined during the investigation did not support the allegation. Booking photos did not show any sign of injury and multiple witnesses stated that the complainant was not struck. Finding Unnecessary Force—UNFOUNDED.

**VIOLATIONS OF RULES/REGULATIONS**

<b>Synopsis</b>	<b>Action Taken</b>
It is alleged that while at SEATAC Airport, the named employee departed the security checkpoint prior to completing screening and being granted permission to do so, causing a security breach.	The officer was off-duty and traveling on personal business. He was directed to wait for additional screening. After waiting a short period, the employee left without further screening. The evidence was conflicting as to whether he believed he had been told he could leave. However, the employee took no action to misuse or even invoke his authority or connection to SPD. Finding—SUPERVISORY INTERVENTION.

**CONDUCT UNBECOMING AN OFFICER**

<b>Synopsis</b>	<b>Action Taken</b>
The complainant alleged he was contacted and patted down by the named employees due to race. Further, he alleged that one of the named employees made inappropriate remarks to him.	The evidence showed the investigative contact was clearly justified and not motivated by race. The complainant was in a vehicle in a high crime area, parked at a gas station but not getting gas, that suspicious activity was taking place around the vehicle. When officers approached the vehicle to investigate, they recognized several of the occupants, and discovered an “officer hazard” alert on the complainant. The complainant was patted down, and the vehicle and its occupants were told to move along. Finding BIASED POLICING—UNFOUNDED.  The evidence was conflicting regarding remarks allegedly made by one of the named employees. Finding CUBO—NOT SUSTAINED.
It was alleged that the named employee, while off-duty, got into a fight in the bathroom of a bar.	The named employee and an unidentified acquaintance were involved in an altercation with the subject, a third patron of the bar. Both the injured subject and named employee agree that the combat was primarily between the subject and the unidentified male. The named employee did not invoke his authority or even affiliation with the police department. However, the named employee was known to the owner and patrons as a police officer, and therefore his conduct reflected poorly on the Department. Finding—SUSTAINED.
The complainant alleged that when he was arrested the named employee placed the handcuffs on too tight and refused to adjust them.	The named employee responded to a 911 assault call at a restaurant. The complainant was arrested for assault after an eyewitness/victim identified within minutes of the event. The named employee handcuffed the complainant according to procedure. The complainant was intoxicated and made violent threats to officers. The named employee checked the handcuffs following complaints by the complainant – the handcuffs were properly placed and the named employee would not remove them because the complainant threatened to assault him if he did. Finding—EXONERATED.
Complainant alleged he was harassed, racially profiled, and embarrassed by comments made by the named employees when he was detained.	The named employees were working a large event at the Seattle Center when they noticed the complainant. They recognized him from previous arrests, and a name search initially showed an active warrant. He was detained and handcuffed as computer results showed a “police hazard” alert. After confirming with Department of Corrections personnel and determining that he was not on active supervision, he was released. The contact lasted under 10

	minutes, and witnesses agree that the situation was handled in a calm, respectful manner. Finding—EXONERATED.
Complainant alleged that the named employee made inappropriate comments during an investigation of disputed cab fare.	The evidence showed that the named employee responded to a 911 call from a cab driver. The taxi's passenger had refused to pay, and there was an exchange between he and the named employee. The complainant did not respond to contacts for further information. Finding—UNFOUNDED.
Complainant alleged that the named employee made an inappropriate comment while directing traffic in a construction site.	The officer denied that he made the alleged comment to the complainant, but acknowledged that he may have muttered something under his breath. The complainant stated that the incident was not a "big thing." Finding—NOT SUSTAINED.
The complainant alleged that the named employee was overly aggressive when he was stopped and issued a citation for jaywalking.	The named employee attempted to contact the complainant for jaywalking, but the complainant admittedly kept walking. The named employee grasped the complainant's shoulder, and tore his shirt. He also may have "swatted" a candy bar from the complainant's hand. But based on the facts available, it is unclear whether the conduct of the named employee rises to the level of misconduct. Finding—NOT SUSTAINED.

**VIOLATION OF LAW**

<b>Synopsis</b>	<b>Action Taken</b>
It was alleged that the named employee, while off duty, became involved in an altercation with a panhandler and discharged her weapon.	The named employee was off duty when she and her companion encountered a citizen asking for money. The accounts of this interaction differ and there were no witnesses. It is clear that the citizen struck the employee's companion over the head with a bottle then fled, with the employee in pursuit. The named employee stated that she was pursuing a fleeing felon and pulled a gun for her safety. She stated that she dropped the gun and when she picked it up it discharged accidentally. No one was struck. The matter was investigated by prosecuting authorities and no charges were brought. However, the evidence showed that the employee did not properly report the discharge, gave misleading statements to investigating officers at the scene, and was in possession of a weapon she had not qualified for. Finding—SUSTAINED.
It was alleged that the named employee disseminated criminal history information for unofficial purposes to a member of the public.	The evidence did not clearly support that the employee discussed the criminal history information, nor that he disseminated the information. Finding—NOT SUSTAINED.

**FAILURE TO TAKE APPROPRIATE ACTION**

<b>Synopsis</b>	<b>Action Taken</b>
Complainant alleged that the named employees failed to take appropriate action by not taking an incident report or arresting a suspect who had assaulted him.	The evidence clearly indicates that the officers responded to a call, investigated, and determined that no assault had taken place. Three days later, they responded again to a second call about the same alleged assault from three days before. The complainant's recollection of the incident is completely unreliable. The officers' actions were proper. Finding—EXONERATED.
The complainant alleged that the named employees failed to take	The evidence shows that officers responded to 911 calls from the complainant and others. The officers took an

appropriate action regarding a domestic violence complaint. She further alleged they were disrespectful.	incident report and provided information to the complainant. However, they did not listen to allegedly threatening voice mail messages nor collect the tape. There were opportunities for the officers to provide better customer service and to reassure the complainant. Finding—SUPERVISORY INTERVENTION.
Complainant alleged that the named employees refused to take a report of a stolen car.	The evidence indicates that the complainant told the officers her son had taken her car keys. The officers were also told that the son had a mental disorder. The officers offered to look for the vehicle, checked the area, and updated the call with new information. Training supports that no auto theft had occurred. Finding-EXONERATED.
The complainant alleged that the named employees failed to respond to a boy's plea for help for his friend and that the officer mocked him.	Several boys were walking home from a dance when they were confronted and assaulted by a group of boys. One of the boys said he went back to the dance but was told by the officer that he couldn't come help the group because he had to stay on his post. The boy could not identify which officer he may have spoken to, and gave a description that matched several officers working at the event. Finding—NOT SUSTAINED.

### Biased Policing

Synopsis	Action Taken
Complainant alleged the named employee stopped him for an invalid infraction due to race. The complainant also complained that the named employee tried to stop him from videotaping him during the traffic stop.	The named employee stopped the complainant for a traffic violation after braking hard to avoid a collision as the complainant was pulling out of a driveway. The complainant admits he never saw the patrol car until he heard the tires squeal. There was no evidence that the stop was motivated by race. The fact that other officers stopped by to back the named employee on the call, which took place at 4:50 am, is not evidence of bias. Finally, the evidence indicates that the complainant was allowed to videotape, but was ordered back into his car and told to leave when the citation and stop was concluded. Finding—EXONERATED.
The complainant alleged he was pulled over for a traffic violation because of his race. He further alleged the named employee was rude and sarcastic.	The evidence showed that the named employee noticed significantly expired tabs on a vehicle and confirmed the status on the car via computer prior to pulling it over. The complainant could not articulate any rude behavior, and the officer twice offered to call his supervisor to the scene. The officer denied being influenced by race. Finding—UNFOUNDED.
It was alleged that a parking enforcement officer made an inappropriate, racist remark to a citizen.	In the initial complaint, the complainant said he did not want to make a big deal out of the racist comments. The named employee denied making any racist comments at all. The complainant did not respond to further attempts to contact him. The preponderance of the evidence does not support the allegations. Finding—UNFOUNDED.

**IMPROPER SEARCH**

Synopsis	Action Taken
The complainant alleged that the named employee broke down his door, entered his apartment, and falsely arrested him. He further alleges that during the arrest the officer used profanity.	<p>The named employee responded to a disturbance call and was informed that the complainant and a companion had been throwing bottles from their balcony onto the street. When officers attempted to contact the suspects, they went back into their apartment. The named employee knocked and identified himself as police. When the complainant failed to respond, the named employee knocked down the door. The suspected crime of property destruction does not generally justify a warrantless, "hot pursuit" entry into a residence. Finding Improper Search—SUPERVISORY INTERVENTION.</p> <p>The facts do not support the allegation of profanity. Finding CUBO—UNFOUNDED.</p>

**FAILURE TO IDENTIFY**

Synopsis	Action Taken
The complainant stated that officers stopped him and directed profanities at him without any reason. He also stated that they refused to identify themselves when he asked for their names.	Contradictory testimony involving the complainant, a witness, and the named employees hindered a final determination. The preponderance of the evidence could not support the allegations as presented. Finding: (primary officer) CUBO (Profanity)—NOT SUSTAINED and Failure to Identify Self—NOT SUSTAINED. Finding (secondary officer) CUBO (Profanity) —UNFOUNDED and Failure to Identify Self—UNFOUNDED.

**January 2006 Cases Selected for Mediation:**

*Cases described below were referred for mediation.*

- The complainant alleges that the named employee was unprofessional and said, "you guys better back up. I really want to hurt somebody tonight, and you'll end up in jail if you mess with me."
- The complainant alleges that the named employees stopped a person with an open container in their vehicle. Further, that one of the officers then dumped out the contents of the beer can and then littered the can in his yard. The complainant also was concerned for the intoxication level of the driver and any of the vehicle passengers.
- The complainant stated that the officer "bullied" him on a traffic stop. Further, that while he was signing the ticket, he wanted to write "UNDER PROTEST" on the citation to contest the ticket and the officer pulled him out of his vehicle and threatened to arrest him. This was said in front of the complainant's children and it scared them.
- The complainant's son was being interviewed concerning a Robbery. In the course of that interview, the complainant believes that the employee acted rudely and made comments that were insulting and derogatory in nature.

**Definitions of Findings:**

**“Sustained”** means the allegation of misconduct is supported by a preponderance of the evidence.

**“Not sustained”** means the allegation of misconduct was neither proved nor disproved by a preponderance of the evidence.

**“Unfounded”** means a preponderance of evidence indicates the alleged act did not occur as reported or classified, or is false.

**“Exonerated”** means a preponderance of evidence indicates the conduct alleged did occur, but that the conduct was justified, lawful and proper.

**Referred for Supervisory Resolution.**

**Training or Policy Recommendation** means that there has been no willful violation but that there may be deficient policies or inadequate training that need to be addressed.

**“Administratively Unfounded/Exonerated”** is a discretionary finding which may be made prior to the completion that the complaint was determined to be significantly flawed procedurally or legally; or without merit, i.e., complaint is false or subject recants allegations, preliminary investigation reveals mistaken/wrongful employee identification, etc, or the employee’s actions were found to be justified, lawful and proper and according to training.

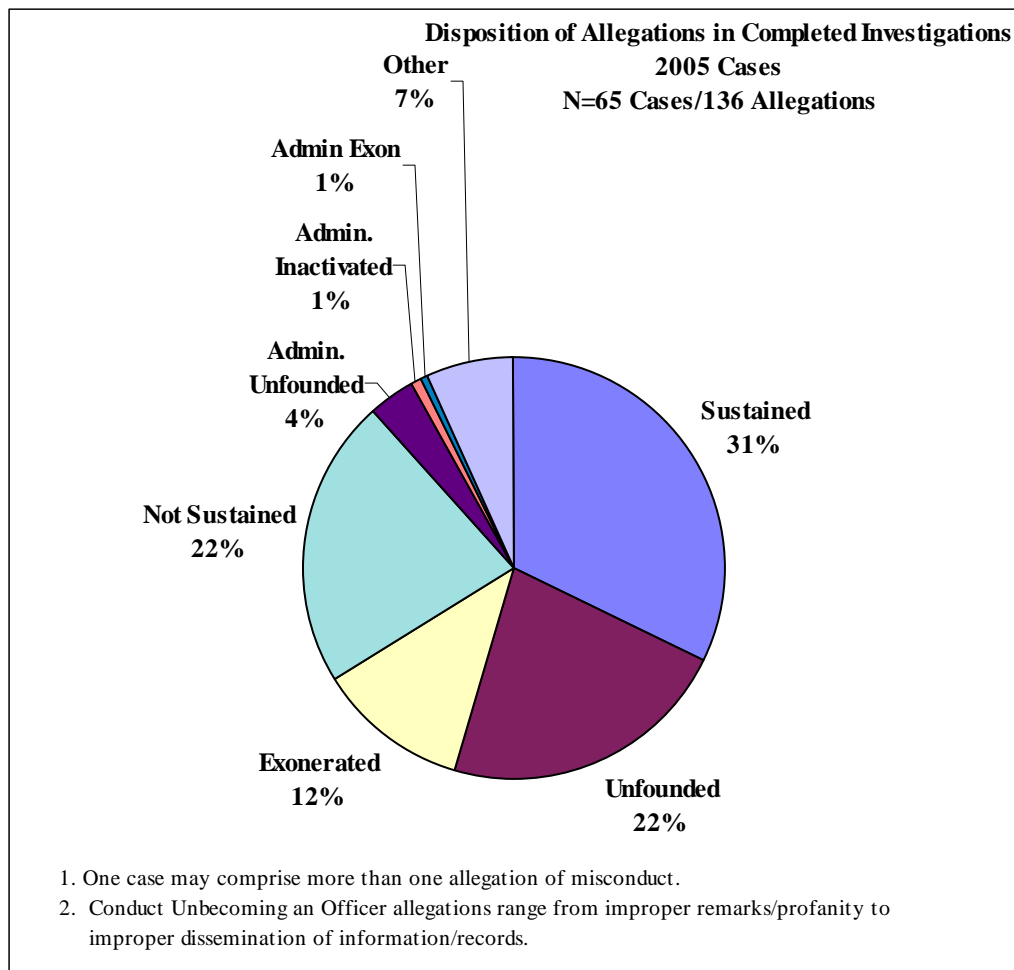
**“Administratively Inactivated”** means that the investigation cannot proceed forward, usually due to insufficient information or the pendency of other investigations. The investigation may be reactivated upon the discovery of new, substantive information or evidence. Inactivated cases will be included in statistics but may not be summarized in this report if publication may jeopardize a subsequent investigation.



## Status of OPA Contacts to Date: 2005 Contacts

	December 2005	Jan-Dec 2005
Preliminary Investigation Reports	23	315
Cases Assigned for Supervisory Review	5	77
Cases Assigned for Investigation (IS;LI)	8	210
Cases Closed	40	65*
Commendations	84	498

\*includes 2005 cases closed in 2006



## 2006 Contacts

	Jan 2006	Jan-Dec 2006
Preliminary Investigation Reports	34	34
Cases Assigned for Supervisory Review	13	13
Cases Assigned for Investigation (IS;LI)	20	20
Commendations	28	28